**HON'BLE Dr. JUSTICE G. YETHIRAJULU**

**W.P.No. 23968 of 2000**

**DATE: 14-12-2007**

**Between:**

1. **D. Sambasiva Rao Chowdhary**

**……. Petitioner**

**and**

1. **The A.P. State Financial Corporation**
   **Rep. by its Chairman,**
   **5-9-194, Chirag Ali Lane, Hyderabad–I.**

**……. Respondents**

**THE HON'BE Dr. JUSTICE G. YETHIRAJULU**

**W.P.No. 23968 of 2000**

**ORDER:**

This writ petition is filed by the petitioner seeking to quash the order, dated 19-10-2000 passed by the second respondent bringing an extent of 20 cents of land to sale situated in Sy.No.721/1/A in Bellulatharpa Village in Bodhan Mandal, Nizamabad District as violative of the principles of natural justice and Article 19 of the Constitution of India.

2. The petitioner contended that the third respondent made an Application to the A.P. State Financial Corporation seeking the loan for construction of a rice mill offering security of 5000 square yards of land. The A.P. State Industrial Infrastructure Corporation Limited through its letter, dated

02-02-1980, has cancelled the allotment of 5000 square yards to the third respondent on the ground that the land is a subject matter of civil disputes between the petitioner and others. Therefore, the third respondent has no absolute title over the property and the allotment of 5000 square yards made through A.P. Industrial Infrastructure Corporation has been cancelled. But the A.P. State Financial Corporation on the basis of the security of the above 5000 square yards, which is a part of the land of the petitioners in Survey No.727/1/A, has granted a loan of Rs.1,56,000/- to the third respondent under loan Account

No.56-1097. The third respondent, despite the protests made by the petitioner, constructed a rice mill in the said land and he is trying to get back the property from the unlawful possession of the third respondent, who trespassed into the land. The revenue accounts stood in his name and the dispute regarding the property between the petitioner and the third respondent has not yet been settled. The first respondent

issued the impugned order by exercising the rights under Section 29 of the State Financial Corporation Act, 1951 and is trying to sell the land. Since the bank sought to proceed against the property of the petitioner, in which the rice mill has been constructed without his consent, he filed W.P.No.20884 of 1998 on the file of this Court for staying the further proceedings in O.A.No.359 of 1996 on the file of the Debts Recovery Tribunal, Bangalore as he is not necessary party to the said proceedings. The writ petition has been admitted and an interim stay of all further proceedings was granted. The impugned order of the respondents, dated
19-10-2000 is violative of the law. Hence, the present writ petition to quash the impugned order.

3. Except ascertaining that the third respondent trespassed into the land of the petitioner and constructed rice mill, there is no whisper as to how the petitioner got the title over the property and what was the nature of right he enjoyed till the third respondent constructed the rice mill. It is an undisputed fact that the third respondent has take loan to construct the rice mill and mortgaged the land in favour of the first respondent. The transaction took place in the year 1978 and at that time, the petitioner never raised any objection regarding the mortgage of the property or taken any steps to prevent the third respondent from making the construction over the land or mortgaging the said property in favour of the first respondent. At this stage, he filed the writ petition contending that there is a dispute regarding the title over the property between the third respondent and himself. Since there is a disputed question of title between the parties, this Court is not the appropriate forum to grant any kind of relief to the petitioner and he has to approach appropriate forum to seek necessary relief either for declaration of his title or for recovery of possession of the property. Since the property was mortgaged in favour of the first respondent, the first respondent has every liberty to bring the property for sale, if the third respondent fails to discharge the loan due to it.

4. In the light of the above circumstances, I do not find any grounds to grant any relief to the petitioner.

5. Hence, the Writ Petition is dismissed. No order as to costs.

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**Dr.G. YETHIRAJULU, J**

Date: 14-12-2007
YCR